

March 1, 2019

**SAN FRANCISCO BAY CONSERVATION AND  
DEVELOPMENT COMMISSION**

Notice of Proposed Rulemaking to Amend

California Code of Regulations Title 14, Division 5, Appendix M

Amend Permit Application Fees

**PUBLIC HEARING**

The San Francisco Bay Conservation and Development Commission (Commission) will hold a public hearing on April 18, 2019 at its regularly scheduled meeting, which begins at 1:00 p.m., at Bay Area Metro Center, 375 Beale Street, San Francisco, California. The Commission's hearing will concern proposed changes to the Commission's permit application fees that are codified at Title 14 of the California Code of Regulations, Division 5, Appendix M. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest (below).

Following the public hearing, the Commission may adopt the proposal substantially as described below or may modify the proposal. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for at least 15 days prior to its adoption from the person designated in this Notice as contact person. Any proposed modifications will be mailed to those persons who submit written comments, provide oral testimony, or have requested notification of any changes to the proposal. Please notify the Commission to receive a meeting notice and any notices of change to the hearing date (see Contact Person, below).

**WRITTEN COMMENT PERIOD**

Any person or organization may submit written comments on the proposed regulatory action. The written comment period closes at 5 p.m. on April 19, 2019. The Commission will only consider comments received by that time. Please submit written comments to:

Marc Zeppetello, Chief Counsel

San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600

San Francisco, California 94102

Telephone: (415) 352-3655

Email: [marc.zeppetello@bcdca.gov](mailto:marc.zeppetello@bcdca.gov)

**AUTHORITY AND REFERENCE**

Authority: California Government Code Section 66632(f) and California Public Resources Code Section 29201(e).

Reference: California Government Code Section 66632(c) and California Public

Resources Code Section 29520(b).

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Currently, Appendix M to the Commission's regulations contains a schedule of permit application fees that are categorized by the type of permit application. The fees were established with the goal of recovering from permit applicants 20% of the total costs of the Commission's regulatory program. Appendix M establishes procedures for recalculating the fees every five years to continue to recover 20% of the Commission's total regulatory program costs. The Commission proposes to amend Appendix M: (1) to double all existing permit application fees; and (2) to increase the percentage of the Commission's total regulatory program costs recovered from permit application fees from 20% to 40%. Under the proposal, the permit application fees would be recalculated every five years. The fees could increase or decrease, depending on whether the fees collected annually during the prior five years were less than or greater than an amount equal to 40% of the average total cost of the Commission's regulatory program. More details are contained in the accompanying Initial Statement of Reasons.

### Anticipated Benefits of the Proposed Regulation

The broad objective of the proposed action is that doubling the Commission's permit application fees would increase the permit fee revenue deposited into the State General Fund to provide reimbursement for disbursements from the General Fund that are used to support the Commission's regulatory program. The specific benefits of the Commission's regulatory program, which would be supported by the proposed action, include preventing unnecessary fill in San Francisco Bay, providing public access to the Bay shoreline, promoting the implementation of appropriate measures to adapt to sea level rise, and assuring compliance with state law and permit conditions governing development and other activities in and adjacent to the Bay.

### Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The Commission has evaluated whether or not the proposed amended regulations would be inconsistent or incompatible with existing state regulations and has found that Appendix M to the Commission's regulations are the only state regulations concerning permit application fees under the McAteer-Petris Act or the Suisun Marsh Preservation Act. Therefore, the proposed amended regulations are neither inconsistent nor incompatible with existing state regulations.

## INITIAL DETERMINATIONS REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: none.

Cost or savings to any state agency: The cost to state agencies to apply for a Commission permit would increase, but the increased cost would not be significant compared to the agency's total project costs. An analysis of economic and fiscal impacts is contained in the Economic and Fiscal Impact Statement (Form 399), particularly the supplement thereto.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost of savings in federal funding to the state: None.

Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The cost to private persons or businesses to apply for a Commission permit would increase, but the increased cost would not be significant compared to the applicant's total project costs. An analysis of economic and fiscal impacts is contained in the Economic and Fiscal Impact Statement (Form 399), including the supplement thereto.

Significant effect on housing costs: None.

Results of the Economic Impact Assessment: This proposed action would not create or eliminate jobs within California, create new businesses or eliminate existing businesses within California, or affect the expansion of businesses currently doing business within California. The benefit of the proposed action to the health and welfare of California residents and the state's environment is that increased permit fee revenue would be deposited into the State General Fund to provide reimbursement for disbursements from the General Fund that are used to support the Commission's regulatory program. The benefits of the Commission's regulatory program, which would be supported by the proposed action, include preventing unnecessary Bay fill, providing public access to the Bay shoreline, promoting the implementation of appropriate measures to adapt to sea level rise, and assuring compliance with state law and permit conditions governing development and other activities in and adjacent to the Bay.

Business reporting requirements: None.

Small Business Determination: The Commission has determined that the proposed regulatory changes will affect small businesses by increasing the permit application fees for all projects. The increased cost would not be significant compared to the applicant's total project costs.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

A number of alternatives to the proposed regulatory action are described in the accompanying Initial Statement of Reasons. The Commission invites interested persons to present comments on the proposed action and alternatives at the scheduled hearing or during the written comment period.

## **CONTACT PERSON**

Inquiries concerning the proposed regulatory action may be directed to:

Marc Zeppetello, Chief Counsel  
San Francisco Bay Conservation and Development Commission  
455 Golden Gate Avenue, Suite 10600  
San Francisco, CA 94102  
Telephone: (415) 352-3655  
Email: [marc.zeppetello@bcdca.gov](mailto:marc.zeppetello@bcdca.gov)

The backup contact person for these inquiries is:

Jaidev Kalra, Legal Secretary  
San Francisco Bay Conservation and Development Commission  
455 Golden Gate Avenue, Suite 10600  
San Francisco, CA 94102  
Telephone: (415) 352-3675  
Email: [jaidev.kalra@bcdca.gov](mailto:jaidev.kalra@bcdca.gov)

#### AVAILABILITY OF TEXT OF THE REGULATIONS AND THE INITIAL STATEMENT OF REASONS AND PLAIN ENGLISH DETERMINATION

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date that this notice is published in the Notice Register, the rulemaking file consists of:

- (1) this Notice;
- (2) the proposed text of the amended regulations;
- (3) the Initial Statement of Reasons;
- (4) the Economic and Fiscal Impact Statement (Form 399) and supplement thereto;
- (5) Staff Report and Recommendation to Commence Rulemaking to Revise Permit Application Fees and Other Amendments to Title 14, Division 5, Appendix M (January 26, 2018);
- (6) Approved Minutes of February 1, 2018 Commission Meeting (March 9, 2018), at 5-12;
- (7) California Coastal Commission, Initial Statement of Reasons for Proposed Amendments of the Coastal Commission's Filing Fee Regulations (prepared for comment period commencing September 14, 2007 and ending October 29, 2007);
- (8) California Coastal Commission, Schedule of Filing Fees for Processing Permit Applications and Other Filings. 14 C.C.R. section 13055 (2019);
- (9) City and County of San Francisco, San Francisco Planning Fee Schedule, Effective August 31, 2018;

(10) City of Berkeley, Planning and Building Department, Permit Fee Chart, Effective July 1, 2017;

(11) Contra Costa County, Land Development Fee Schedule, Effective August 22, 2016, Building Permit Fees (Table 1-A); and

(12) City of Fremont, Building and Safety Division, Plans and Permits Division, Building Permit Fee Schedule, Effective July 1, 2015.

Copies of these documents may be obtained from the Commission's website at [www.bcdc.ca.gov](http://www.bcdc.ca.gov) under the link to regulatory actions. Copies may also be obtained by contacting Marc Zeppetello at the address, telephone number, or email address listed above.

The proposed regulations were prepared pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed regulations are non-technical and written to be easily understood by the affected parties.

#### AVAILABILITY OF CHANGES OR MODIFIED TEXT

After holding the public hearing and considering all timely and relevant comments, the Commission may adopt the proposed regulatory changes substantially as described in this notice. If the Commission makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as modified. Please send requests for copies of any modified regulations to Marc Zeppetello at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon the Commission's adoption of the regulations, copies of the Final Statement of Reasons may be obtained by contacting Marc Zeppetello at the above address.

#### AVAILABILITY OF THE DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the proposed changes to the amended regulations (in strikeout and underlined format), as well as the Final Statement of Reasons once it is completed, can be obtained from the Commission website at [www.bcdc.ca.gov](http://www.bcdc.ca.gov).